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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,718	04/03/2000	Borre Bengt Ulrichsen	P-340.3 Burrows	4824

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John C Evans
Reising Ethington Barnes Kisselle
Learman & McCulloch PC
P O Box 4390
Troy, MI 48099-9998

EXAMINER

NGUYEN, TUAN N

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 06/11/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/541,718	Ulrichsen et al
Examiner	Art Unit
Tuan Nguyen	3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12/4/01
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 144, 145, 148 - 154, 156 - 166 and 168 - 176 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 156 - 166, 173 and 175 is/are allowed.
- 6) Claim(s) 144, 145, 148 - 154 and 168 - 172, 174, 176 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. 08/776,689.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) Interview Summary (PTO-413) Paper No(s). _____
- 19) Notice of Informal Patent Application (PTO-152)
- 20) Other: _____

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DETAILED ACTION

1. The abstract of the disclosure is objected to because the inclusion of legal phraseology such as "comprises" on line 2. Correction is required. See MPEP § 608.01(b).
2. Claims 148-154, 168-172 and 174 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 148, line 1, "claim 147" is inaccurate because claim 147 is already cancelled. It should read --claim 172--.

In claim 172, line 4, "sad" appears to be a typographical error. It should read --said--.

In claim 174, the language from line 1 to line 4 is vague and awkward.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 144,145, 168-171, 174 and 176 are rejected under 35 U.S.C. 102(b) as being anticipated by EPO'221.

EPO'221 discloses a method and an apparatus for automatically inspecting matter for varying composition. The method and apparatus comprise advancing means 17 for advancing a stream of matter; a detection station 22; emitting means 11 to emit a detection medium (electromagnetic radiation) at a transverse section of the stream at the detection station; a

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plurality of detection zones at the detection station; scanning means 15 for scanning the plurality of detection zones; and receiving means 28 to receive detection medium varied by variations and to determine the intensity of electromagnetic radiation of selected wavelength(s) received from portions of the stream.

5. Claims 148-154 and 172 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

6. Claims 156-166, 173 and 175 are allowed.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sommer, Jr. et al. and Cole are cited to show other pertinent art.

8. Applicant's arguments filed on December 04, 2001 have been fully considered but they are not persuasive.

Responding to applicants' remarks, applicants have alleged that the reference of EPO'221 does not disclose any scanning of the transverse section of a stream of matter at the detection station. However, the Examiner respectfully disagrees. As shown in Fig. 2, a plurality of detectors 15 are arranged transversely at a detection station 22. As broadly claimed, EPO'221 does disclose a determining to perform for each detection zone in respect of a plurality of the wavelengths simultaneously.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication should be directed to Examiner Tuan Nguyen at telephone number (703) 308-3664.


TUAN N. NGUYEN
PRIMARY EXAMINER

5/30/02

tnn,

May 30, 2002.